

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Rachel Eta Hill, on behalf of B.H. and
A.E.H.,

Case No. 19-CV-1794 (WMW/HB)

Plaintiff,

v.

REPORT AND RECOMMENDATION

State of Minnesota,

Defendant.

In an order dated September 12, 2019, the Honorable Steven E. Rau, United States Magistrate Judge, ordered Plaintiff Rachel Eta Hill to file an amended complaint that was not frivolous and that complied with the Federal Rules of Civil Procedure. (Order 4–5 [Doc. No. 6].) Hill was given until October 12, 2019, to submit an amended complaint, failing which it would be recommended that this action be dismissed without prejudice for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).

That deadline has now passed, and Hill has not filed an amended complaint.¹ Accordingly, this Court now recommends, in accordance with the September 12 Order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute.

¹ The Court has given Hill several weeks of additional time to file an amended complaint, given a recent address change that may have prevented Hill from immediately receiving the September 12 Order. (*See* Ntc. Change Address, Sept. 25, 2019 [Doc. No. 9] (indicating Hill’s change of address).) The Court has recently been informed by the Clerk’s Office that a copy of the September 12 Order was mailed to Hill on or about October 1, 2019, after the notice of address change was received.

See Henderson v. Renaissance Grand Hotel, 267 F. App'x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”). Given that recommendation, the Court also recommends denying Hill’s Application to Proceed in District Court Without Prepaying Fees or Costs [Doc. No. 2].

Based on the foregoing, and on all of the files, records, and proceedings herein,

IT IS HEREBY RECOMMENDED that:

1. This action be **DISMISSED WITHOUT PREJUDICE** under Federal Rule of Civil Procedure 41(b) for failure to prosecute.
2. Plaintiff Rachel Eta Hill’s Application to Proceed in District Court Without Prepaying Fees or Costs [Doc. No. 2] be **DENIED**.

Dated: November 19, 2019

s/ Hildy Bowbeer

Hildy Bowbeer

United States Magistrate Judge

NOTICE

This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals. Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).